



UNITED STATES PATENT AND TRADEMARK OFFICE

41)

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/782,823

02/23/2004

David E. Leeman

5456

7590

07/23/2007

James C. Wray
Suite 300
1493 Chain Bridge Road
McLean, VA 22101

EXAMINER

PARSLEY, DAVID J

ART UNIT

PAPER NUMBER

3643

MAIL DATE

DELIVERY MODE

07/23/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/782,823

Applicant(s)

LEEMAN, DAVID E.

Examiner

David J. Parsley

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-42 is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3643

Detailed Action

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6-7-07 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In line 14 of claim 1, the phrase "...wherein when the entire extension to surface of the extension is inserted through..." renders the claim indefinite in that it is unclear to what the part of the extension the surface of the extension is referring to.

Art Unit: 3643

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,914,856 to Kennedy in view of U.S. Patent No. 5,617,669 to Levey and U.S. Patent No. 5,187,893 to Knight.

Referring to claim 10, Kennedy discloses a bait trap/basket comprising, first and second pivotally connected portions – of item 10, for forming a complete cylindrical container – see figure 2, top, bottom and side surfaces in each of the first and second portions of the cylindrical container – see at 10 in figures 2-3, one or more openings – at 80 and proximate 70 proximate 54, in the side surfaces of the cylindrical container portions – see figures 2-3, one or more hinges on edges of the side surfaces, the hinges pivotally connected the first half to the second half – at 60,64 – see figures 2-4, raised regions – at 74,70, on the top and bottom of at least one of the cylindrical halves for improving grip – see figures 2-5, protrusions and tabs – at 58,68,72, on edges of the surfaces of the first and second portions for locking the cylindrical container closed – see figures 2-5, protrusions and tabs on edges – at 58,68,72, of the first and second halves for locking the cylindrical container closed – see figures 2-5. Kennedy further discloses extensions – at 48,50, on edges of the side surfaces opposite the edges with the hinges – see figures 2-3, with

Art Unit: 3643

a top – at the top of the wire – at 48,50, a gap – proximate 50 and 38 as seen in figures 2-5, and a base – at 50, connected to the side edges – see at 48 in figure 5, and undercuts in the gap – see proximate 38,48, for locking a wire grid in a gap between the undercuts and the edges of the side surfaces – see at the wire grid of the trap in figure 1. Kennedy does not disclose the cylindrical container is formed of first and second halves. Levey does disclose the cylindrical container – at 10, is made of first and second halves – at 12,14 – see figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kennedy and add the cylindrical container made of first and second halves of Levey, so as to allow for the device to be opened to insert and/or remove items from the interior of the device. Kennedy does not disclose protrusions and tabs on edges of the top and bottom surfaces of the first and second halves for locking the cylindrical container closed. Levey does disclose protrusions and tabs – at 26,28,36,34,38, on edges of the top and bottom surfaces of the first and second halves for locking the cylindrical container closed – see figures 1-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kennedy and add the protrusions and tabs of Levey, so as to removably securely hold the halves of the cylinder together. Kennedy further does not disclose each of the extensions having an enlarged top, a base connected to the side surface edge and undercuts beneath the enlarged top forming a gap adjacent the base for locking a wire grid between the enlarged top and the side surfaces. Knight does disclose each of the extensions – at 16-39, having an enlarged top – at 16, a base – at 23,24,26,39, connected to the side surface edge – see figures 1-3, and undercuts beneath the enlarged top – see proximate 23, 24 and 26, forming a gap adjacent the base for locking a wire grid – at 15,15',15'', between the enlarged top and the side surfaces – see figures 1-3. Therefore it would have been obvious to one of ordinary skill in

Art Unit: 3643

the art to take the device of Kennedy and add the extensions of Knight, so as to removably secure items to the wire grid.

Referring to claim 12, Kennedy as modified by Levey and Knight further discloses the bait trap is used inside fishing traps – see figure 1 of Kennedy.

Referring to claim 13, Kennedy as modified by Levey and Knight further discloses the cylinder is plastic – see column 2 lines 23-50 of Kennedy.

Referring to claim 14, Kennedy as modified by Levey and Knight further discloses the one or more openings are rectangular – see at 80 in figure 2 of Kennedy.

Referring to claim 15, Kennedy as modified by Levey and Knight further discloses the one or more openings are arranged in rows – see at 80 in figure 2 of Kennedy.

Referring to claim 21, Kennedy as modified by Levey and Knight further discloses the first and second halves are closed by pushing two halves together and locking the protrusions into the tabs – see at 58-72 in figures 2-4 of Kennedy.

Referring to claim 22, Kennedy as modified by Levey and Knight further discloses the first and second halves are opened by applying pressure to the top and bottom surfaces and pulling the first and second halves away from one another – see at 58-72 in figures 2-4 of Kennedy.

Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy as modified by Levey and Knight as applied to claim 10 above, and further in view of GB Patent No. 2226743 to Bristow.

Referring to claim 16, Kennedy as modified by Levey and Knight does not disclose the raised regions are concentric ridges on the top and bottom surfaces of the cylindrical container.

Art Unit: 3643

Bristow does disclose the raised regions are concentric ridges – at 30-38, on the top and bottom surfaces of the cylindrical container – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kennedy as modified by Levey and Knight and add the concentric ridges on the top and bottom surfaces of Bristow, so as to allow for any objects located inside the device to be securely held inside the device.

Referring to claim 17, Kennedy as modified by Levey and Knight does not disclose the raised regions are dimples along the outside surface of the cylindrical container. Bristow does disclose the raised regions – at 36, are dimples on the outside surface of the cylindrical container – see for example figure 3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kennedy as modified by Levey and Knight and add the raised dimples on the container of Bristow, so as to allow for any objects located inside the device to be securely held inside the device.

Claims 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy as modified by Levey and Knight as applied to claim 10 above, and further in view of U.S. Patent No. 5,606,820 to Suddeth.

Referring to claim 18, Kennedy as modified by Levey and Knight does not disclose the one or more hinges is three hinges. Suddeth does disclose the one or more hinges – at 52,54, is three hinges – see for example figures 5-6. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kennedy as modified by Levey and Knight and add three hinges of Suddeth, so as to allow for the two halves of the container to be securely and movably connected to one another.

Art Unit: 3643

Referring to claim 20, Kennedy as modified by Levey and Knight does not disclose the hinges are vertical bars on half of the cylindrical container that lock into half circle depressions on the opposite half of the cylindrical container. Suddeth does disclose the hinges – at 52, 54, are vertical bars – at 52, on half of the container that lock into half circle depressions – at 54, on the opposite half of the container – see for example figures 3-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kennedy as modified by Levey and Knight and add the hinges comprising bars and half circle depressions of Suddeth, so as to allow for the two halves of the container to be securely held together.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy as modified Levey and Knight as applied to claim 10 above, and further in view of U.S. Patent No. 4,638,588 to Abadie. Kennedy as modified by Levey and Knight does not disclose a loop for hanging the apparatus when not in use. Abadie does disclose a loop – at 36, for hanging the apparatus when not in use – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kennedy as modified by Levey and Knight and add the hanging loop of Abadie, so as to allow for the device to be easily stored and transported.

Allowable Subject Matter

4. Claims 1-9 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 23-42 are allowed.

Response to Arguments

5. Regarding claims 10 and 12-22, the Kennedy reference US 4914856 discloses a bait trap/basket comprising, first and second pivotally connected portions – of item 10, for forming a complete cylindrical container – see figure 2, top, bottom and side surfaces in each of the first and second portions of the cylindrical container – see at 10 in figures 2-3, one or more openings – at 80 and proximate 70 proximate 54, in the side surfaces of the cylindrical container portions – see figures 2-3, one or more hinges on edges of the side surfaces, the hinges pivotally connected the first half to the second half – at 60,64 – see figures 2-4, raised regions – at 74,70, on the top and bottom of at least one of the cylindrical halves for improving grip – see figures 2-5, protrusions and tabs – at 58,68,72, on edges of the surfaces of the first and second portions for locking the cylindrical container closed – see figures 2-5, protrusions and tabs on edges – at 58,68,72, of the first and second halves for locking the cylindrical container closed – see figures 2-5. Kennedy further discloses extensions – at 48,50, on edges of the side surfaces opposite the edges with the hinges – see figures 2-3, with a top – at the top of the wire – at 48,50, a gap – proximate 50 and 38 as seen in figures 2-5, and a base – at 50, connected to the side edges – see at 48 in figure 5, and undercuts in the gap – see proximate 38,48, for locking a wire grid in a gap between the undercuts and the edges of the side surfaces – see at the wire grid of the trap in figure 1. The Kennedy reference is not used to disclose the cylindrical halves as seen above in paragraph 3 above in this office action. Further, the Kennedy reference is not used to disclose the extensions and undercuts as seen in paragraph 3 above in this office action.


Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890.

The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


DAVID PARSLEY
PRIMARY EXAMINER